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8 Attorneys for Complainant

9  
10 **BEFORE THE**  
**CALIFORNIA BOARD OF ACCOUNTANCY**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**  
12

13 In the Matter of the Accusation Against:

Case No. AC-2005-5

14 GARY L. MYERS  
18051 Irvine Boulevard  
15 Tustin, CA 92780

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

16 Certified Public Accountant Certificate  
No. CPA 15151  
17

Respondent.  
18

19  
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
21 proceedings that the following matters are true:

22 **PARTIES AND JURISDICTION**

23 1. Carol Sigmann, Complainant, the Executive Officer of the California  
24 Board of Accountancy (the "Board"), brought this action solely in her official capacity and is  
25 represented in this matter by Bill Lockyer, Attorney General of the State of California, and by  
26 Timothy L. Newlove, Deputy Attorney General

27 2. On or about January 30, 1970, the Board issued Certified Public  
28 Accountant Certificate No. CPA 15151 to GARY L. MYERS, Respondent. The Certificate

expired on January 1, 2002, and has not been renewed. Respondent is representing himself in this proceeding.

3. Accusation No. AC-2005-5 was filed on October 28, 2004, before the California Board of Accountancy, Department of Consumer Affairs, and the Accusation is currently pending against Respondent. Both the Accusation and all other statutorily required documents were properly served on Respondent on November 10, 2004. Respondent timely filed his Notice of Defense contesting the original Accusation on November 23, 2004. A copy of the Accusation No. AC-2005-5 (hereinafter the "Accusation") is attached hereto as Exhibit A and incorporated herein by reference.

## WAIVERS & CONTINGENCY

4. Respondent has carefully read and understands the charges and allegations in Accusation No. AC-2005-5. Respondent has also carefully read and understands the effects of this Stipulated Surrender of License and Order

5. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

6. In signing this stipulation, Respondent is voluntarily consenting to the adoption of this Stipulated Surrender as the Board's Decision in Case No. 2005-5, enabling the Board to issue the Order set forth hereinbelow without further legal process. Respondent represents that no tender, offer, promise, threat or inducement of any kind whatsoever have been made by the Board or any member, officer, agent or representative thereof in consideration of this offer or otherwise to induce him to so consent.

///

1                   7.       This Stipulated Surrender of License and Order shall be subject to  
2 approval by the Board. Respondent understands and agrees that counsel for Complainant and the  
3 staff of the Board may communicate directly with the Board regarding this stipulation and  
4 settlement, without notice to or participation by Respondent or his counsel. By signing the  
5 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek  
6 to rescind the stipulation prior to the time the Board considers and acts upon it.

7                   8.       If the Board fails to adopt this stipulation as its Decision and Order, the  
8 Stipulated Surrender and Order shall be withdrawn. It shall be of no force or effect, except for  
9 this paragraph. It shall have no evidentiary value, shall be inadmissible in any legal action  
10 between the parties, and shall not be relied upon or introduced in any disciplinary, or other action  
11 or proceeding by either party hereto. In the event that the Stipulated Surrender is not adopted,  
12 nothing recited herein shall be construed as a waiver of Respondent's right to a hearing on the  
13 truth of any of the matters charged. Communications pursuant to this paragraph, and  
14 consideration of this matter, shall not disqualify the Board or other persons from future  
15 participation in this or any other matter affecting Respondent. Respondent agrees that should the  
16 Board reject this Stipulated Surrender and if this case proceeds to hearing, Respondent will assert  
17 no claim that the Board was prejudiced by its review and discussion of this stipulation or of any  
18 records related hereto.

19                   **ADMISSIONS AND FURTHER STIPULATIONS BETWEEN THE PARTIES**

20                   9.       Respondent stipulates that he has not renewed his Certificate No. CPA  
21 15151 and has allowed it to expire because he has retired from practice and he has no intention of  
22 renewing the license, reapplying for licensure, or petitioning for reinstatement in the State of  
23 California.

24                   10.      Solely for the purpose of resolving the charges and allegations in the  
25 Accusation, Case No. AC-2005-5, without further proceedings, Respondent understands that, at a  
26 hearing, Complainant could establish a factual basis for the charges in the Accusation, and that  
27 those charges, if proven, would constitute cause for discipline of his CPA license. Respondent  
28 understands that, as provided in paragraph 2 of the Order set forth hereinbelow, in the unlikely

1 event that Respondent should apply for licensure, the charges will be deemed admitted.

2           11. Respondent understands that by signing this stipulation he enables the  
3 Board to issue an Order accepting the surrender of his CPA Certificate without further process.  
4 The Board's acceptance of the license surrender constitutes the imposition of discipline against  
5 Respondent. This stipulation constitutes a record of the discipline and shall become a part of  
6 Respondent's license history with the Board.

7           12. Respondent agrees not to take any action or make any public statement  
8 that creates, or tends to create, the impression that any of the matters set forth in the Stipulated  
9 Surrender, Order and Decision are without a factual basis. It is not the intent of the Board,  
10 however, to prevent Respondent from testifying or responding truthfully in civil litigation or  
11 regulatory matters, including where he is required to do so by any court of law or regulatory  
12 body.

13           13. The Complainant represents that, pursuant to California Business and  
14 Professions Code section 5107, the Board's reasonable costs of investigation and prosecution in  
15 this matter are \$5,121.23. Respondent agrees to reimburse the Board in this amount within thirty  
16 days of the effective date of the Order herein.

17           14. In the event Respondent does not reimburse, within thirty days of the  
18 effective date of the Order, the Board's costs as provided in paragraph 3 of the Order set forth  
19 hereinbelow, Respondent agrees that the Board may set aside its Order in the case and take  
20 further disciplinary action against Respondent's license without further formal process or formal  
21 notice to Respondent.

22           15. Respondent agrees that, as provided in paragraph 4 of the Order set forth  
23 hereinbelow, on or before the effective date of the Order, he shall cease using the name "Myers  
24 Accountancy Corporation."

25           16. The parties understand and agree that facsimile copies of this Stipulated  
26 Surrender of License and Order, including facsimile signatures thereto, shall have the same force  
27 and effect as the originals.

28 ///

1                   **IN CONSIDERATION OF THE FOREGOING** stipulations, the parties agree  
2 that the Board may, without further notice or formal proceedings, issue and enter the following  
3 Order:

4   **ORDER**

5                   **IT IS HEREBY ORDERED** that the surrender of Certified Public Accountant  
6 Certificate No. CPA 15151, issued to Respondent GARY L. MYERS, is accepted by the  
7 California Board of Accountancy.

8                   1.       Respondent MYERS shall lose all rights and privileges as a Certified  
9 Public Accountant in California as of the effective date of the Board Decision and Order, and his  
10 license will be canceled.

11                  2.       Respondent MYERS understands that if he ever applies for licensure or  
12 petitions for reinstatement in the State of California, the Board shall treat it as a new application  
13 for licensure. Respondent must comply with all the laws, regulations and procedures for  
14 licensure in effect at the time the application or petition is filed and all of the charges and  
15 allegations contained in the Accusation, Case No. AC-2005-5, shall be deemed to be true,  
16 correct, and admitted by Respondent when the Board determines whether to grant or deny the  
17 application or petition.

18                  3.       Respondent shall reimburse the Board its costs of investigation and  
19 enforcement in this proceeding, in the amount of \$5,121.23, within thirty days of the effective  
20 date of this Order.

21                  4.       On or before the effective date of the Order, Respondent shall cease the  
22 use of the name "Myers Accountancy Corporation."

23       ///

24       ///

25       ///

26       ///

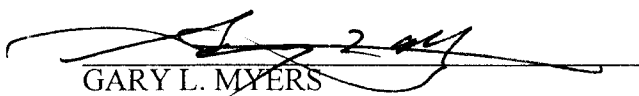
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28       ///

1 ACCEPTANCE

2  
3 I have carefully read the above Stipulated Surrender of License and Order. I  
4 understand the stipulation and the effect it will have on my Certified Public Accountant  
5 Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly,  
6 and intelligently, and agree to be bound by the Decision and Order of the California Board of  
7 Accountancy.

8  
9 DATED: APRIL 11, 2005.

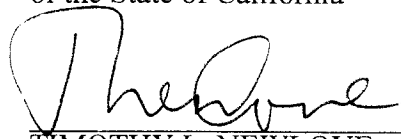
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11   
12 GARY L. MYERS  
13 Respondent

14  
15 ENDORSEMENT

16  
17 The foregoing Stipulated Surrender of License and Order is hereby respectfully  
18 submitted for consideration by the California Board of Accountancy of the Department of  
19 Consumer Affairs.

20  
21 DATED: April 11, 2005

22  
23 BILL LOCKYER, Attorney General  
24 of the State of California

25   
26 TIMOTHY L. NEWLOVE  
27 Deputy Attorney General

28 Attorneys for Complainant

**BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

GARY L. MYERS  
18051 Irvine Boulevard  
Tustin, CA 92780

Certified Public Accountant Certificate  
No. CPA 15151

Respondent.

Case No. AC-2005-5

O.A.H. No. L-2005010467

**DECISION AND ORDER**

The attached Stipulated Surrender of License and Order is hereby adopted  
by the California Board of Accountancy as the Decision and Order in the above-entitled matter.

This Decision shall become effective on June 24, 2005.

It is so ORDERED May 25, 2005.



\_\_\_\_\_  
FOR THE CALIFORNIA BOARD OF ACCOUNTANCY

**EXHIBIT A**

**Accusation  
Case No. 2005-5**



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of the State of California  
2 TIMOTHY L. NEWLOVE  
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6 Attorneys for Complainant  
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10 **BEFORE THE**  
**CALIFORNIA BOARD OF ACCOUNTANCY**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. AC-2005-5

13 GARY L. MYERS  
18051 Irvine Boulevard  
14 Tustin, CA 92780

**ACCUSATION**

15 CPA License No. 15151

16 Respondent  
17

18 The Complainant, Carol Sigmann, for cause of accusation against GARY L.  
19 MYERS, alleges:  
20

**PARTIES**

21 1. The Complainant, Carol Sigmann, is the Executive Officer of the  
22 California Board of Accountancy (hereinafter the "Board") and makes this Accusation solely in  
23 her official capacity.

24 2. On January 30, 1970, the Board issued to respondent GARY L. MYERS  
25 (hereinafter respondent "MYERS") a certificate, number 15151, of Certified Public Accountant,  
26 to practice accountancy in the State of California pursuant to the Accountancy Act, Division 3,  
27 Chapter 1, section 5000 et seq. of the California Business and Professions Code. On January 1,

1 2002, the certificate expired for failure to pay the renewal fee and failure to submit a declaration  
2 of compliance with continuing education regulations. Respondent's certificate remains in an  
3 expired status.

#### 4 JURISDICTION

5 3. Business and Professions Code section 5100 authorizes the Board to bring  
6 an administrative disciplinary proceeding against a license holder under the Accountancy Act for  
7 unprofessional conduct.

#### 8 FACTS

9 4. At all times material herein, Myers Accountancy Corporation was a duly  
10 registered California corporation.

11 5. At all times material herein, Myers Accountancy Corporation was not  
12 registered by the Board to practice public accountancy in the State of California.

13 6. In or about October, 2002, the Board received a consumer complaint from  
14 J.S., president of an insurance brokerage company. The matter was assigned to Investigative  
15 CPA Paul Fisher.

16 7. On October 23, 2002, the Board's Enforcement Division sent a letter to  
17 respondent MYERS requesting respondent to provide information concerning the consumer  
18 complaint of J.S. Respondent failed to respond to this letter.

19 8. On September 15, 2003, Investigator Fisher sent a letter to respondent  
20 MYERS, again requesting information regarding the consumer complaint. Respondent failed to  
21 respond to this letter.

22 9. On March 4, 2004, Investigator Fisher sent a letter to respondent MYERS  
23 requesting respondent to provide information concerning the consumer complaint of J.S., to  
24 explain the expired status of his certificate of Certified Public Accountant, and to inform the  
25 Board about whether or not respondent was licensed to prepare income tax returns. The letter  
26 also notified respondent that Myers Accountancy Corporation was not registered with the Board.  
27 Respondent failed to respond to this letter.

1                   10.     On June 2, 2004, Investigator Fisher sent a letter to respondent MYERS.  
2 This letter had the same content as the letter dated March 4, 2004, described in paragraph 9  
3 hereinabove. Respondent failed to respond to this letter.

4                   11.     On August 18, 2004, the Board caused to be mailed a Subpoena Duces  
5 Tecum, with a supplemental letter, to respondent MYERS. The Subpoena Duces Tecum ordered  
6 respondent to produce records in his possession relating to the consumer complaint of J.S.  
7 Respondent failed to respond to the Subpoena Duces Tecum.

8                   12.     In the course of his investigation on the case, Investigator Fisher obtained  
9 the following information showing that respondent MYERS was practicing public accountancy  
10 under the name of Myers Accountancy Corporation notwithstanding the fact that his certificate of  
11 Certified Public Accountant had expired on January 1, 2002, and that Myers Accountancy  
12 Corporation is not registered with the Board:

13                   a.     On or about May 17, 2002, respondent prepared a California Corporation  
14 Franchise or Income Tax Return for the insurance brokerage company operated by J.S.  
15 The tax return is signed by respondent under the business name Myers Accountancy  
16 Corporation.

17                   b.     In the August, 2003 edition of the Smart Yellow Pages for Orange  
18 County Central, under the listing of "Accountants-Certified Public," there appear  
19 references to both "Myers Gary L" and "Myers Accountancy Corporation."

20                   c.     In June, 2004, Investigator Fisher accessed the Internet and the web  
21 page of Myers Accountancy Corporation which advertised the providing of "tax services  
22 On-Line."

23                                   **FIRST CAUSE OF ACCUSATION**

24                                   Failure to Respond to Board Inquiry

25                   13.     Complainant incorporates herein by this reference the preamble and each  
26 of the allegations set forth in paragraphs 1 through 11 hereinabove.

27                   14.     Business and Professions Code section 5100(g) provides that

1 unprofessional conduct under the Accountancy Act includes the willful violation of the  
2 Accountancy Act or any rule or regulation promulgated by the Board under the authority granted  
3 by the Accountancy Act.

4 15. Section 52 of Title 16 of the California Code of Regulations (hereinafter  
5 the "Board Regulations") provides, in pertinent part, as follows:

6 "(a) A licensee shall respond to any inquiry by the Board or its appointed  
7 representatives within 30 days. The response shall include making available all files,  
8 working papers and other documents requested.

9 "(b) A licensee shall respond to any subpoena issued by the Board or its  
10 executive officer or the assistant executive officer in the absence of the executive officer  
11 within 30 days and in accordance with the provisions of the Accountancy Act and other  
12 applicable laws or regulations."

13 16. The certificate of Certified Public Accountant held by respondent MYERS  
14 is subject to discipline under Business and Professions Code section 5100(g), for a willful  
15 violation of Board Regulation 52, in that respondent failed to respond to the inquiries made  
16 by the Board and Investigator Fisher, as described in paragraphs 7, 8, 9 and 10 hereinabove, and  
17 failed to respond to the Subpoena Duces Tecum issued by the Board, as described in paragraph  
18 11 hereinabove.

#### 19 **SECOND CAUSE OF ACCUSATION**

##### 20 Practice Under Unregistered Name

21 17. Complainant incorporates herein by this reference the preamble and each  
22 of the allegations set forth in paragraphs 1 through 12 and 14 hereinabove.

23 18. Business and Professions Code section 5060(b) provides that no person or  
24 firm may practice public accountancy under any name other than the name under which the  
25 person or firm holds a valid permit to practice issued by the Board.

26 19. The certificate of Certified Public Accountant held by respondent MYERS  
27 is subject to discipline under Business and Professions Code section 5100(g), for a willful

1 violation of Business and Professions Code section 5060(b), in that, respondent practiced public  
2 accountancy under the unregistered name of Myers Accountancy Corporation, as described in  
3 paragraphs 12(a), 12(b) and 12(c) hereinabove.

4 **THIRD CAUSE OF ACCUSATION**

5 Practice Without Permit

6 20. Complainant incorporates herein by this reference the preamble and each  
7 of the allegations set forth in paragraphs 1 through 12 and 14 hereinabove.

8 21. Business and Professions Code section 5050 provides, in pertinent part,  
9 that no person shall engage in the practice of public accountancy in the State of California unless  
10 such person is the holder of a valid permit to practice public accountancy issued by the Board.

11 22. The certificate of Certified Public Accountant held by respondent MYERS  
12 is subject to discipline under Business and Professions Code section 5100(g), for a willful  
13 violation of Business and Professions Code section 5050, in that, respondent practiced public  
14 accountancy without a valid permit, as described in paragraphs 12(a), 12(b) and 12(c)  
15 hereinabove.

16  
17 **WHEREFORE**, the Complainant requests that a hearing be held on the matters  
18 herein alleged, and that following said hearing, the Board issue a decision:

19 1. Revoking, suspending or otherwise imposing discipline upon Certified  
20 Public Accountant Certificate number 15151, issued to GARY L. MYERS; and

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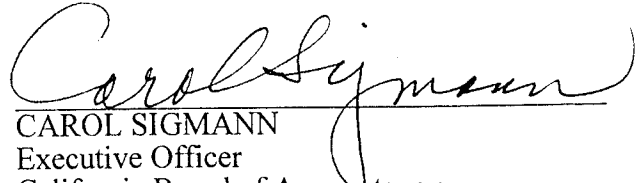
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27 ///

2. Taking such other further action as may be deemed proper.

DATED: October 28, 2004



CAROL SIGMANN  
Executive Officer  
California Board of Accountancy  
Department of Consumer Affairs  
State of California

Complainant

SD2004801194

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